

DOCUMENT RESUME

08118 - [C3348424]

[Protest Involving Issues before Court]. B-193139. November 28, 1978. 2 pp.

Decision re: Drew Chemical Corp., Bocaton, NJ; by Milton J. Socolar, General Counsel.

**Contact: Office of the General Counsel: Procurement Law II.
Organization Concerned: Department of the Navy: Navy Ships Parts
Control Center, Mechanicsburg, PA; Allied Enterprises, Inc.,
Norfolk, VA.**

Authority: 4 C.F.R. 20. B-190772 (1978).

A company in protesting a contract award contended that it was the only qualified supplier of the product and sought judicial relief in court. The protest was dismissed since the court case involved the same material issues as the protest, and the court did not express an interest in a GAO decision. (RTW)

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20546

FILE: B-193139

DATE: November 28, 1978

MATTER OF: Drew Chemical Corporation

DIGEST:

Protest is dismissed where protester files request for relief in court of competent jurisdiction involving same material issues as protest and court has not indicated any interest in GAO decision.

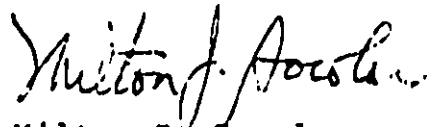
Drew Chemical Corporation (Drew) of Boonton, New Jersey has protested the award of a contract for scale preventive compound to Allied Enterprises, Inc. (Allied) of Norfolk, Virginia by the Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, as the result of solicitation No. N00104-78-R-6872. Drew's protest was filed with this Office on October 10, 1978. Drew contends that the contract should have been awarded to it as the only qualified and approved supplier/producer of the scale preventive compound.

Drew has also sought judicial relief in the United States District Court, District of New Jersey (Civil Action NO. 78-2555). The material issues raised in this litigation are essentially the same as those raised in the protest before this Office. Drew initiated the civil action on October 23, 1978; a request for a temporary restraining order was denied by the court on October 25, 1978. A hearing on Drew's request for a preliminary injunction was held by the court on November 3, 1978.

It is the policy of this Office not to decide protests where the material issues are presently before a court of competent jurisdiction unless the court

requests, expects or otherwise expresses an interest in our decision. 4 C.F.R. 20.10 (1978). Drew has not requested injunctive relief pending a decision by this Office and the court has not indicated any interest in a decision; therefore, we will not decide this protest. Donley, Richardson and Associates, B-190772, January 10, 1978, 78-1 CPD 20.

The protest is dismissed.



Milton J. Socolar
General Counsel